

**COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS
LIAISON COMMITTEE MINUTES**

Regular MeetingMay 19, 2010

Location6900 Atmore Drive, Richmond, Virginia

Presiding..... John Roberts, Chairman

Present Sterling Proffitt, Chairman, Board of Corrections
Jimmy Burrell, Board of Corrections
B. A. Washington, Member, Board of Corrections
Cynthia Alksne, Member, Board of Corrections
Eugene Taylor, Hampton Roads Regional Jail
Bruce Conover, Northwestern Regional Adult Detention Center
Elton Blackstock, Blue Ridge Regional Jail Authority
Steve Draper, Sheriff, Martinsville City Jail
Tom Jones, Sheriff, Charlotte County Jail
Jeff Frazier, Superintendent, Northern Neck Regional Jail
Ron Elliott, Deputy Superintendent, Peumansend Creek Regional Jail
Glenn Aylor, Superintendent, Central Virginia Regional Jail
Gary Bass, Classification and Records, DOC
Kim Lipp, Architecture and Engineering, DOC
Brooks Ballard, Architecture and Engineering, DOC
Bill Wilson, Compliance and Accreditation, DOC
Donna Foster, Compliance and Accreditation, DOC

The meeting was called to order and attendees were welcomed.

I. Committee Chairman (John Roberts)

- Mr. Roberts called for a motion to approve the March minutes. By MOTION duly made and seconded, the minutes were unanimously APPROVED by the attending committee members.

II. Meeting Summary

Bill Wilson reported the following:

- As of May 15th, the prison population was 31,957. The prison capacity was 32,178 with 1,058 contract prisoners. Out-of-compliant rates have dropped slightly from 4,432 to a current level of 4,057. The ADP (average daily

population) dropped from 27,196 in March to 27,009 in April. Rated capacities increased somewhat from 19,197 to 20,660 due to increased capacities at Riverside Regional Jail and New River Valley Regional Jail. The percentage of ADP over rated capacity is at 30.7%.

Sterling Proffitt asked about the bunk count methodology Mr. Wilson plans to use for the report that the General Assembly has requested. Mr. Wilson clarified that the General Assembly asked for the double bunking count of jails built after 1980. No action is required by the Board of Corrections (BOC). Special purpose or temporary beds will not be included. There are no guidelines recommended by the legislature. Mr. Wilson has proposed looking at the newer facilities' rated capacities, as well as double bunking capacities, numbers that have been required to be provided to the BOC by the legislature. ACA does not allow for double bunking at maximum security facilities so he did not allow for those facilities to be counted as double bunking. He did allow for double bunking at 100% for medium and minimum security facilities. During a recent committee meeting the issue was raised that a dorm cannot be double bunked at 100%, so he rated dorms at 50% and federal beds must be subtracted. Mr. Wilson advised that he doesn't know the purpose of the request by the General Assembly but speculates that they are under an assumption that there is a surplus of empty beds at the local level. During a survey he conducted in September 2009, there were 900+ inmates sleeping on floors or in temporary beds. New River Valley Regional Jail housed 180 inmates out of this number and they have since opened their expansion, eliminating a portion of this number but leaving 700+ inmates in overcrowded conditions. Although the intention of the legislature is unknown, the DOC does not consider this number a safe level. Safe levels are based on designed capacities.

Glenn Aylor addressed the issue saying that the legislation states "a measure of actual jail capacity". While he agrees this is necessary, methodology was not provided. His opinion is that this count requires a physical visit to each facility, but questions anybody's authority to enter a jail for this function aside from life, health and safety audits. The code does not provide for this requirement. Many jails have constructed bed space from local funding and he said he fails to understand how the state can take a count of beds that were not paid for out of state funds. He asked if it was the opinion of the BOC that the opinion of the attorney general (AG) be requested. Mr. Proffitt replied that this may be a possibility. Since Mr. Wilson does not plan to do extensive on-site visitation for this report, he did not know that the AG's opinion was necessary. Mr. Wilson responded that he planned to use only the designed capacities to prepare the report. Each jail is somewhat unique in design and that will need to be considered with the exception of federal beds. Mr. Aylor said that Mr. Wilson does not have the design for recent updates to his jail because they were not required, therefore, the state does not have an accurate count of the bed space for his jail. Mr. Aylor stated that he would prefer that federal bed information be excluded from the report altogether. Jeff Frazier questioned the reporting of

beds constructed by local dollars without any state or federal funding. Mr. Wilson did not know the answer as there were no parameters included in the request for the report for the legislature. Mr. Frazier suggested that these locally funded beds be identified to the assembly members similarly to the reporting of federally funded bed space to which Mr. Proffitt agreed. The issue of inmate counts during weekends was brought up, to which Mr. Wilson said they would not be included in the report.

Mr. Wilson noted that the construction standards recommendations will change the term “operational capacity” to “design capacity.”

Elton Blackstock asked about the exceptions to the report for jails built prior to 1980 with additions added since that date. Mr. Wilson replied that there are 16 jails built prior to 1980 and any of them that have undergone major renovation will need to be counted. Some of the jails built prior to this date included special purpose beds, which, once removed, will actually reduce the rated capacities. Ron Elliott added that at one time, standards required that square footage include space to house work release inmates be included into rated capacity. Mr. Wilson stated that there are two jails built prior to 1980 that are currently triple bunking. He understands that the populations are an operational issue, determined by each jail administrator, but he is trying to offer the legislature a basic representation of realistic double bunked capacities. His interpretation is that the lawmakers incorrectly believe that jails are being built to accommodate too many inmates. Cynthia Alhsne suggested a hybrid of the recommended approach asking Mr. Wilson to prepare an initial report and provide the report to each facility for tweaking with justification for the changes. Mr. Wilson advised that the report is due in October and time constraints may preclude the feasibility of adding multiple parameters.

Mr. Blackstock discussed concerns over the ability to determine maximum security levels based on design alone, to which Mr. Wilson agreed. Mr. Wilson said that in 2006, the legislature asked the Compensation Board, with assistance from the Secretary of Public Safety, the DOC and the DCJS (Department of Criminal Justice Services), to create a similar report to no avail. This has now been asked of the BOC.

Mr. Proffitt stated that the reasons for requesting this report determines how it should be crafted, a question he has raised to Dick Hall-Sizemore. He hopes this report will eliminate suspicions and doubts that there are vast amounts of empty beds within the Virginia local jail system. Bruce Conover stated that he has empty beds due to a lack of funding for the staff necessary to provide a safe environment if utilized, information that most liaison members appear to support as necessarily inclusive in the proposed report. Mr. Wilson added that weekenders need to be included as well. Additionally, the staff paid for by the Compensation Board should be identified, as well as positions due to the facilities that have not been funded but where slated to be funded in the past.

Jimmy Burrell asked what is the current number of state inmates in local beds. Mr. Wilson and Mr. Bass answered that there are about 2,000 being held for the state and 4,000 waiting to be received into state facilities.

Kim Lipp advised that a double bunking count for DOC facilities was provided to the legislature 12-15 years ago and that her interpretation is that the legislators want this report for an accurate comparison. Ms Lipp expressed her thoughts that a truthful portrayal of the double bunking capabilities will prove beneficial to the jails rather than a burden and the suspicions are likely unfounded. With 4,000 out-of-compliance inmates, the numbers will reflect the true picture.

Brooks Ballard suggested that a spreadsheet be presented and possibly should have a column for the capacity based on beds/square footage/etc., as well as a column for capacity based on staffing. Mr. Proffitt stated that another approach may be useful considering the budgetary woes facing the legislators in response to state construction contributions at 25% or 50%. Mr. Burrell suggested that the state review the incarceration criteria saying that many people are incarcerated who should not be considered lawbreakers or dangerous to public safety. Mr. Proffitt agreed offering suggestions of alternate incarceration methods. He also recommended that all jails be provided a copy of the report presented to the General Assembly. Mr. Conover added that it should be shared with the jails before it is published and certified as accurate. Ms. Alksne asked that a draft spreadsheet be presented to the Liaison Committee for review and suggestions and reviewed at each meeting as the numbers are added. She also suggested the committee prepare a cover letter for report. Mr. Elliott added that a ratio for the design/operational capacity be clarified not using the standard 3:1 ratio, especially for jails with less than 150 beds. Staffing not considered in the ratio includes transportation, kitchen, maintenance, warehouse, etc. Also suggested was distinguishing between state funded positions and locally funded positions. Mr. Conover asked why each jail was not asked to self report this information. (No one representing the legislature was available to provide an answer.) Ms. Ballard recommended reporting current staffing to offer supervision availability under the current funding levels. Ms. Alksne suggested also adding a firm date for a snapshot of the populations and the number of inmates a facility could safely handle if staffing was provided. Mr. Blackstock discussed the fact that jails cannot refuse inmates while the DOC has a firm limit on the number it will accept.

Gary Bass reported the following:

- Out-of-compliance numbers are down and he is surprised they are not lower as The DOC has been filling the beds at St. Brides directly from the jails. There were 800 available beds originally and there are still 300, so there will be more reductions in those numbers. Because the JCB beds are no longer funded, there

may be an off-set that the DOC is experiencing. After the Supreme Court ruled that juveniles cannot be given life sentences, he reviewed the population and found 14 “lifers” sentenced as juveniles who did not commit murder. Even though not labeled as a life sentence, some have 200+ years to serve, so they will be in for a long time, others were sentenced to life, which will be corrected to be parole eligible. They are reviewing this number again as the research unit and the IT unit had mismatched numbers. He had argued the decision with the AG’s office because, in Virginia, there is geriatric release at age 60 (as parole eligible if approved) an opinion not shared by the AG’s office. Mr. Blackstock asked if the state is actively seeking additional contract prisoners from out of state. Mr. Bass said that we would like to rent out Grayson if it will not be funded since it costs a great deal to maintain even without inmates. Mr. Blackstock noted that localities have suffered tremendous budget cuts and have overcrowded facilities while the legislators are not funding a prison built by the taxpayers. Mr. Bass said that the contract beds generate income to the state, of which profits are allocated to the general fund, not to the DOC.

Kim Lipp reported the following:

- The Grayson facility is progressing well. Final completion will likely be August due to snow delays, but the facility still has not been funded to open for intake.
- Sterling Proffitt’s appointment to the Board of Correction expires at midnight, June 30, 2010. This will likely be his final meeting. He will be missed.
- The committee will meet on July 21, 2010 at 9:30 a.m. in the Board Room at Atmore Drive.

By MOTION duly made by the Chairman of the Liaison Committee, John Roberts, and seconded by several members in attendance, and was unanimously APPROVED the meeting was adjourned.